

Baker & Hostetler LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION, Plaintiff-Applicant, v. BERNARD L. MADOFF INVESTMENT SECURITIES LLC, Defendant.	Adv. Pro. No. 08-01789 (SMB) SIPA LIQUIDATION (Substantively Consolidated)
In re: BERNARD L. MADOFF, Debtor.	
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, Plaintiff, v. ALBERT H. SMALL, Defendant.	Adv. Pro. No. 10-05186 (SMB)

NOTICE OF MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010

Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”) [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, on April 28, 2014, the Trustee and Defendants filed with this Court the Notice of Mediation Referral [Dkt. No. 16], wherein the Trustee and Defendants (the “Parties”) jointly agreed to enter mediation prior to completion of discovery without further court order.

Through this Notice of Mediator Selection, and pursuant to the Avoidance Procedures and the Mediation Order, made applicable to the Parties upon the filing of the Notice of Mediation Referral, the Parties hereby mutually select from the Mediation Register Judge Melanie Cyganowski to act as Mediator in this matter. The Parties further agree to contact Judge Cyganowski as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person’s law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Dated: April 28, 2014

Of Counsel:

BAKER & HOSTETLER LLP

811 Main, Suite 1100

Houston, Texas 77002

Telephone: (713)751-1600

Facsimile: (713)751-1717

Dean D. Hunt

Email: dhunt@bakerlaw.com

Farrell A. Hochmuth

Email: fhochmuth@bakerlaw.com

Respectfully submitted,

/s/ Nicholas J. Cremona

BAKER & HOSTETLER LLP

45 Rockefeller Plaza

New York, New York 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Email: dsheehan@bakerlaw.com

Nicholas J. Cremona

Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
And Bernard L. Madoff*

AND

/s/ Edward A. Smith

VENABLE LLP

1270 Avenue of the Americas

Rockefeller Center

New York, NY 10020

Telephone: (212)-983-3850

Facsimile: (212)-307-5598

Edward A Smith

Email: easmith@Venable.com

Vincent E. Verrocchio (*pro hac vice* pending)

Email: VEVERrocchio@Venable.com

*Attorneys for SOUTHERN ENGINEERING
CORPORATION EMPLOYEES' PROFIT SHARING
PLAN; ALBERT H. SMALL, individually and in his
capacity as Trustee of the trust maintained in
connection with the Southern Engineering
Corporation Employees' Profit Sharing Plan;
ALBERT H. SMALL; ALBERT H. SMALL
CHARTABLE REMAINDER UNITRUST; ALBERT
H. SMALL, individually and in his capacity as
Trustee for the Albert H. Small Charitable
Remainder Unitrust*